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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,029	08/09/2001	Anne Troy		4716

7590

01/06/2004

Anne Countryman
1040 Grissom Dr.
Palatine, IL 60074

EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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8


DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See Attachment.

Since the reply filed on February 18, 2003 appears to be bona fide, applicant is given a TIME PERIOD of TWO MONTH from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).


Winnie Yip
Primary Examiner
Art Unit: 3637

ATTACHMENT

This office action is in response to applicant's amendment filed on February 18, 2003.

The amendment to the claims filed on February 18, 2003 does not comply with the requirements of 37 CFR 1.121(c) because of following reasons:

I. Amendment to the Drawings:

The newly submitted drawings filed on February 18, 2003 are disapproved by the examiner as failing to comply with 37 CFR 1.84(p)(5) because:

- a. They do not include certain reference signs to facilitate understanding of the invention. Notice, U.S. Patent Rule 37 CFR 1.84(f) states, "Reference signs not mentioned in the description shall not appear in the drawing and vice versa." A drawing must show every detail feature of the invention specified in the claims and the drawing should include **certain reference signs mentioned** in the description. The drawing figures should not include letter description (i.e., "insert") and should use reference signs and any cross sections to define the detail of the drawing. Notice, all reference signs in the drawing must be also mentioned in the specification under the section of "Detailed Description of the Invention" to facilitate understanding of the claimed invention.
- b. In figures 3 and 4, to comply with 37 CFR 1.84(h), the plane upon which a sectional view is taken should be indicated on the general view by a broken line, the ends of which should be designated by numerals corresponding to the figure number of the sectional view and have arrows applied to indicate the direction in which the view is taken. Correction is required.

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c. In figure 4, the exploded view, i.e. Fig. 4, the separated part or separated cross-sections should be designated by two separated figures or enclosed by a bracket in order to show the relationship or order of assembly of various parts.

d. The different embodiments (i.e., the single tube garland can or two shaft glitter cane" should be separated in different figures.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. Notice changing drawings may cause changes in the specification. The objection to the drawings will not be held in abeyance.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. Drawing changes is required and must be presented on a separate sheet, apart from any other text. **An explanation** of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

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Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

II. Amendment to the specification:

The substitute specification filed February 18, 2003 has not been entered because it does not conform to 37 CFR 1.125(b) and (c) because:

- a. The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with **lines double spaced** on good quality paper are required.
- b. The specification under the section of "Detailed Description of the Invention" fails to provide certain reference signs to correspond with the drawing figures to facilitate understanding of the claimed invention. See the format in the recited U.S. Patent reference. For example, "the walking cane 1 having a tubular shaft 2", "the walking cane 1 having a handle end cap 3", and "to place a reinforced rubber tip 4 on the end of the shaft" etc. **No new matter may be introduced in the required drawing and the specification.**
- c. The abstract of the disclosure is objected to because it fails to provide a single paragraph within a range of 50 to 150 words. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure:

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The abstract should be in narrative form and generally limited to a **single paragraph on a separate sheet within the range of 50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

A new substitute specification excluding the claim is required pursuant to 37 CFR

1.125(a) because the reasons as described set forth above. Notice, changing of drawings will cause changing of specification correspondingly. A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

III. Amendments to claims:

The amendment to the claims filed on February 18, 2003 has not be entered because of it does not comply with the requirements of 37 CFR 1.121(c) for the following reasons:

- a. Applicant fails to clearly indicate how to change the claims. It is not clear whether applicant wants to cancel claim 1 as originally filed and add new claims 1-3. If

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so, applicant is required to indicate that "claim 1 (cancelled)". And, the newly added claims must be numbered following the claim 1. For example: new claims 2-4.

b. The new claims 2-3 appear to be independent claims. If so, these independent claims should indicated their proper dependencies. For example, claim 2 (as filed) should read: "Claim 3 (New). A cane according to claim 2, wherein the PETG cane shaft includes".

c. In addition, regard to claim 1, it is confusing whether applicant intents to claim "a glitter cane" which having an elongated transparent shaft including reflective foil, or to claim "a garland cane" which having an elongated transparent shaft including reflective garland. Notice, two different embodiments should be clearly claimed in a generic claim or separated in two different claims. Further, the term "a 1" PETG tube" is confusing whether the cross section of the tube is one inch in diameter or is one inch in thickness"? And, the recited language "the dimensions of the inner tubular shaft for the glitter is 5/8'" is confusing whether the dimension "5/8 ft " is the diameter of the tubular shaft or is dimension of the length of tubular shaft?

d. This application contains claims directed to the two species of the claimed invention: a garland cane or a glitter cane. Applicant is required under 35 U.S.C. 121 to provide a generic claim to define both disclosed species for prosecution on the merits. Applicant will be entitled to consideration of claims to two species which are written in dependent forms or otherwise include all the common limitations of a generic claim.

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While the claims are the most important part of the patent from the inventor's point of view the description is the most important from the public's point of view. The description according to the patent laws must describe the invention in such clear concise and exact terms as to allow any person skilled in the art to make and use the applicant's invention. See 37 C.F.R. 1.75(d)(1) and M.P.E.P. 608.01(l) which requires that terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. Notice the formats of the references as recited.

INFORMATION ON HOW TO FILE AN AMENDMENT IN CLAIMS

Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

(c) *Claims.* Amendments to a claim must be made by rewriting the entire claim with all changes (*e.g.*, additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing.* All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (*e.g.*, Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be

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used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, *i.e.*, without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, *i.e.*, without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

Conclusion

If applicant continues to prosecute the application, Applicant should submit a complete response to the office action including sections **"In the specification", "In the claims", and "Remarks"** as indicated in early office letter mailed November 20, 2002.

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

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Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: "Commissioner of Patents and Trademarks, Washington, D.C. 20231" on (date).

(Typed or printed name of the person signing this certificate)

(signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)____-____ on (date).

(Typed or printed name of the person signing this certificate)

(signature)

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These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted.

For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.

In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally** signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

NOTICE TO APPLICANT: In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.

Since the reply filed on February 18, 2003 appears to be *bona fide*, applicant is given a TIME PERIOD of **TWO MONTH** from the mailing date of this notice, whichever is longer, within

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which to submit an amendment in compliance with 37 CFR 1.121 in order to avoid abandonment.


EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Winnie Yip
Primary Examiner
Art Unit 3637

wsy
12/30/2003